

REMARKS

The Official Action dated January 13, 2005, has been carefully considered. Accordingly, the changes presented herewith, taken with the following remarks, are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

Claims 1-8 are pending in the application. Applicants thank the Examiner for allowing claims 7 and 8. In the Official Action, the Examiner objects to claim 1 based on informalities. Applicants have amended claim 1 to address the objection.

The Examiner rejected claims 1-6 under 35 U.S.C. 103(a) as being unpatentable over Colvard et al. (U.S. Patent 5,738,677) in view of Zelman (U.S. Patent 5,403,307). The Examiner asserts that Colvard teaches the majority of the elements of claim 1, except for a vibrating aspiration port and a control unit for controlling irrigation and aspiration rates. The Examiner then states that Zelman teaches an ultrasonically vibrated needle and a control unit for controlling treatment energy. The Examiner further states that it would have been obvious to one skilled in the art to combine these two references. Applicants respectfully traverse this rejection for at least the following reasons.

As amended, claim 1 recites in pertinent part: “a control console, interconnected with both the first handpiece and the second handpiece for controlling simultaneous and sequential operation of the first handpiece and the second handpiece and in response to the selected pulse amplitude for controlling a pulse duty cycle of power supplied to the second handpiece, an off duty cycle being controlled to ensure heat dissipation before a subsequent pulse is activated” (emphasis added). Applicants respectfully submit that this element is not taught or suggested by either Colvard or Zelman, individually or in combination. Specifically, upon a close inspection, we found no mention in either Colvard or Zelman of controlling a pulse duty cycle, and more particularly not in a manner including an off duty cycle being controlled to ensure heat dissipation before a subsequent pulse is activated.

Further, Zelman specifically teaches a footpedal (68) for controlling "phaco on demand" (See, e.g., col. 10, lines 29-31) or ultrasonic energy (See, e.g., col. 10, lines 54-57). Zelman does not teach a control console interconnected with two handpieces – and more particularly not a first handpiece with a laser emitting probe and second handpiece with a vibrating needle – for simultaneous and sequential operation of the two handpieces.

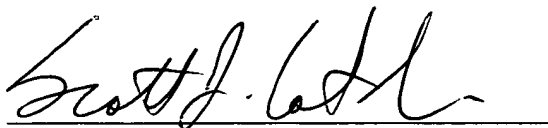
Applicants respectfully submit that the claimed invention is not obvious in light of Colvard and Zelman, especially as at least one element of claim 1 is not taught or suggested by either reference. As such, claim 1 is allowable over the cited references. Further, as claims 2-6 are dependent on claim 1, these claims should be allowed for at least the same reasons that claim 1 is allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all claims of the present application are in condition for allowance. Reconsideration and allowance of all pending claims at an early date is respectfully requested.

Applicants believe that no fees are due in accordance with this Amendment beyond those included herewith. Should any additional fees be due, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account 502317.

Respectfully submitted,



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